

C. Belated 1 A Envelopes Contained Documents that had been Disclosed Timely

The 1A envelopes gave rise to another overcounting problem. In some instances, the 1A envelope and its contents were considered belated even though the contents had in fact been disclosed timely to the defense. This occurred when an office placed FD-302s from another office into 1A envelopes. For example, Dallas sent an FD-302 and an insert to the OKBOMB Task Force and to other offices, including New Orleans. New Orleans placed the FD-302 and insert in a 1A envelope. The 1A envelope and its contents were considered as New Orleans belated documents even though the contents – the Dallas FD-302 – had been disclosed to the defense. We show a graphic of this at Example #2 in this Appendix. A Mobile belated 1A contains a composite drawing sent to the field offices by the OKBOMB Task Force during the OKBOMB investigation.

D. Belated Documents Similar to Documents Previously Disclosed

Another related problem arises from similar but not identical documents. In 14 cases, we found FD-302s that had been disclosed to the defense that differed from the belated document by only a few words, such as the spelling of T-shirt (tee shirt) or the use of names instead of pronouns (Smith v. he).

These situations usually resulted from agents recreating documents that already existed and from draft documents. On occasion the Task Force did not receive an FD-302, requested that the field office send one, and the field office created a new FD-302 that was sent to the Task Force rather than sending the one that already existed. When the field office files were reviewed in Oklahoma City, the FD-302 that had never been sent was deemed to be belated even though it varied only slightly from the FD-302 that had been disclosed to the defense. Another example is a San Francisco insert that was considered to be a belated second wave document. According to San Francisco, the insert was a draft that was turned into an FD-302 by the agent. The FD-302 was submitted and disclosed to the defense, but the draft insert remained in the agent's working folder. It was deemed to be belated after the working files were reviewed as part of the second wave. However, because draft documents were never considered to